MEETING OF THE STATES PARTIES TO THE CONVENTION ON THE PROHIBITION OF THE USE, STOCKPILING, PRODUCTION AND TRANSFER OF ANTI-PERSONNEL MINES AND ON THEIR DESTRUCTION

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STANDING COMMITTEE ON THE GENERAL STATUS AND OPERATION OF THE CONVENTION

Final Report*
2001-2002

I. Introduction

The Standing Committee on the General Status and Operation of the Convention, established in accordance with the decisions and recommendations of Meetings of the States Parties, met in Geneva on 1 February 2002, and 27 and 31 May 2002. These meetings were convened by its Co-Chairs, Ambassador Virasakdi Futrakul of Thailand and Ambassador Steffen Kongstad of Norway, with the support of its Co-Rapporteurs, Mr Alexander Kmentt of Austria and Mr Gustavo Laurie of Peru.

Representatives of more than 80 States Parties, 30 States not Parties, the United Nations, the International Campaign to Ban Landmines (ICBL), the International Committee of the Red Cross (ICRC) and numerous other international and non-governmental organizations participated in the work of the Standing Committee. The meetings were held in Geneva with the support of the Geneva International Centre for Humanitarian Demining. Interpretation was provided thanks to the support of the European Commission.

II. Overview of the status of implementation, including matters related to assistance and cooperation:

The Standing Committee was provided with an overview of the general status of implementation of the Convention, particularly the status of progress in achieving the core humanitarian aims of the Convention. This overview, which was warmly welcomed by the Standing Committee, both underscored the extraordinary progress that has been made since the Convention's entry-into-force and highlighted a variety of challenges that remain regarding destroying stockpiled mines, clearing mined areas, assisting victims and generating the necessary resources to undertake these tasks.

III. Overview of the general status of universalization

It was noted that universalization remains crucial to the achievement of the Convention's humanitarian aims. In this context, warm welcome was given to the formal acceptance of the

Convention by Nigeria, Algeria, the Democratic Republic of Congo and Suriname, and to the interest expressed by several States not Parties in joining the Convention.

The Coordinator of the Universalization Contact Group, Ms Shannon Smith of Canada, presented reports on the activities of the Group. These reports noted a continued effort to identify specific tasks and concrete actions, the possibility of reaching 130 ratifications before the Fourth Meeting of the States Parties (4MSP), and that the Implementation Support Unit (ISU) could enhance the work of the Group. In addition it was reported that the Contact Group had identified ongoing needs including: an increased military to military dialogue; ensuring that universalization goals are part of the agendas of regional organizations; strategic funding and technical partnerships; European States Parties playing a leading role in universalization in Europe; and categorising the remaining States not Parties according to their concerns and reasons for not acceding to the Convention.

The Standing Committee also received updates on universalization activities, such as the January 2002 seminar for North African countries in Tunis and the May 2002 conference *Landmines in Southeast Asia* in Bangkok. Support for regional seminars was expressed and the value of the partnership with the ICBL and ICRC on universalization efforts was noted.

IV. Matters related to the general operation of the Convention

A. Coordinating Committee

As requested by the States Parties at their Third Meeting (3MSP), Nicaragua, as Chair of the Coordinating Committee (CC) reported on the activities of the CC, noting that it had met regularly with its principal focus being to prepare for the two sessions of Standing Committee meetings in 2002. From the reports on the CC's activities, it was evident that three broad accomplishments had been made: First, the work of the Intersessional Programme focused with even greater clarity on the achievement of the Convention's core humanitarian aims. Second, enhanced preparations were undertaken in advance of meetings of the Standing Committees. And third, the CC operated with great openness and transparency, in part by producing and ensuring the access to President's Notes from CC meetings on the GICHD website.

The Standing Committee welcomed the important contributions of the Coordinating Committee to the effective operation of the Intersessional Work Programme and to preparations for Meetings of the States Parties. In addition, the Standing Committee expressed its appreciation for the manner in which the Coordinating Committee was performing its tasks in accordance with the decisions taken at Meetings of the States Parties.

B. Implementation Support Unit

The Director of the GICHD, Ambassador Martin Dahinden, reported that, further to the decision of the States Parties at the 3MSP, an agreement between the President of 3MSP and the GICHD was signed in November 2001 to establish the Implementation Support Unit (ISU). In addition, it was reported that a budget had been established, a voluntary trust fund set-up, and a Manager, Mr Kerry Brinkert, appointed.

At the second meeting of the Standing Committee it was reported that the ISU had already made a positive impact by assisting the Coordinating Committee in its rigorous preparations for the Intersessional week, by serving as an information resource for all States Parties and others, and by beginning preparations to set up a documentation resource facility. It was noted that the ISU provides "value-added" services with regard to the implementation of the Convention, without replacing the efforts of individual States Parties.

C. Sponsorship Programme

The Coordinator of the Sponsorship Programme, Mr Peter Sagar of Canada, reported on the Programme's efforts to facilitate participation by States Parties from mine-affected developing countries, States not Parties which are interested in joining the Convention and expert speakers for Standing Committee meetings. It was noted that over 70 individuals benefited from the Sponsorship Programme at each of the two series of Standing Committee meetings. Several States Parties pledged support for the Programme and appreciation was extended to the Programme, its Coordinator and the GICHD for its role in administering the Programme.

D. Intersessional Work Programme

On the basis of a non-paper introduced by Ms Cecilia Sanchez Reyes of Nicaragua, representing the Presidency of the 3MSP, the Standing Committee reflected on the Intersessional Work Programme to date and considered current needs and opportunities. The timeliness of the paper was welcomed. In addition, overwhelming support for the main elements of the paper was noted, in particular that the objectives that were established for the Intersessional Programme continue to be relevant and that at this stage in the Convention's life it is important to focus with even greater clarity on areas most directly related to the core humanitarian objectives of the Convention. Support was also noted for the principles that have served the Intersessional Programme well to date, particularly the informal nature of the process.

With respect to new Co-Rapporteurs, it was noted that in keeping with past practice, the Co-Chairs, with a view to identifying a list of nominees, had undertaken consultations with interested States Parties. It was reported that these consultations – which had been undertaken with the aim of ensuring a regional balance, a balance between mine-affected and donor States Parties and between the need for rotation and the need for continuity – were ongoing and that a list of nominations would be presented to all States Parties as soon as possible, for consideration at the 4MSP.

E. Preparations for the Fourth Meeting of the States Parties (4MSP)

In keeping with past practice, the first meeting the Standing Committee expressed its support for a Draft Provisional Agenda, a Draft Programme of Work, and Draft Rules of Procedure for the 4MSP. The Standing Committee also noted that all documents be issued in the six languages of the Convention, except for the reports under Article 7, which are accessible on the UNDDA website, and information documents. The Standing Committee also voiced its support for the designation of Switzerland as Secretary General of the 4MSP in order to undertake the role of coordinating the opening ceremony and a number of side events. As well, pursuant to past practice

and the draft rules of procedure, it was agreed that the UN Secretary General nominate an Executive Secretary for the 4MSP.

At its second meeting, the Standing Committee expressed satisfaction with revised Cost Estimates for the 4MSP and noted the designation of Mr Enrique Roman-Morey of the UN Department of Disarmament Affairs office in Geneva as Executive Secretary and the nomination of Ambassador Christian Faessler of Switzerland as Secretary General.

F. Preparations for the Fifth Meeting of the States Parties

At the first meeting of the Standing Committee, Thailand recalled its offer to host the 5MSP and asked that this offer be conveyed to the States Parties for consideration.

G. Preparations for the Convention's First Review Conference

The Standing Committee indicated that consideration be given to clarifying a process to prepare for the Review Conference, that this process should be transparent and inclusive, and that all States Parties should be provided with the opportunity to participate in discussions on this process. It was noted that it would be prudent for States Parties to begin – as early as the 4MSP – to discuss the options that exist for a preparatory process and that the current and incoming Presidencies should keep this point in mind and ensure sufficient preparations for such a discussion at the 4MSP.

V. Matters pertaining to particular Articles of the Convention

Article 1

It was recalled that interest existed over recent year to hold further discussions of understandings of the word "assist" in Article 1(c) of the Convention. In this context, States Parties were invited to share information on how, in operational terms, Article 1 is being implemented. Some States Parties took advantage of this opportunity to inform the Standing Committee on their application of the Article, particularly in instances wherein they may be participating in joint operations with States not Parties to the Convention. It was noted that an increasing number of national views was bringing greater clarity to this matter. The ICBL provided examples of recent situations where clarity with respect to States Parties' understanding of the word "assist" would be desirable. In addition, it argued that a common understanding of this matter would strengthen the Convention.

Article 2

The attention that matters related to Article 2 has received over recent years was recalled and it was noted that the President's Action Programme of the 3MSP suggested a continuing a dialogue on these matters. Taking advantage of this dialogue, several States Parties shared their experiences and points of view regarding the application and understanding of Article 2. The ICRC and Human Rights Watch introduced background papers regarding Article 2 to assist States Parties in preparations for discussions on this Article. The ICRC stressed the necessity, without prejudging the legal interpretation, to identify practical steps to move beyond the legal

debate. The ICBL expressed the wish that more States Parties would present their state practices and argued that legal interpretation is less important than actual State practice.

Article 3

It was recalled that the President's Action Programme of the 3MSP stated that "to further clarify the reasons why mines are retained for training and development under Article 3 and, in particular, to reaffirm the common understanding as regards the amount of mines that can be retained in a manner consistent with Article 3, the Co-Chairs…will continue to ensure that this topic is raised during future meetings of the Standing Committee." In this context, several States Parties provided updates on mines retained in accordance with Article 3.

The ICBL and others reaffirmed the understanding that the number of mines retained under Article 3 should be in the hundreds or thousands, but not in the tens of thousands. It urged States Parties to re-evaluate their need to retain mines for training, given that it appears that very few retained mines have actually been used. The ICBL also stressed that it would be useful if States Parties included in their Article 7 reports information on the intended purpose and actual use of mines retained.

Article 7

The Coordinator of the Article 7 Contact Group, Ambassador Jean Lint of Belgium, reported on the status of Article 7 reporting and reminded the Standing Committee of the 30 April deadline for submitting annual updates. It was noted that the importance given to Article 7 by all Standing Committees may have contributed to an increase in the number of Article 7 reports submitted. Ambassador Lint, on behalf of the Contact Group, also introduced a non-paper, which included some specific suggestions regarding Article 7 reporting. Support was expressed for the suggestions and elements included in the non-paper, including using Forms B and D to share information on progress and needs.

The ICBL noted the progress in the submission of initial Article 7 reports but also expressed concern about the 2002 reporting rate. VERTIC reminded the Standing Committee that the Article 7 Reporting Handbook had been translated into the six languages of the Convention and was available from the United Nations.

Article 8

It was recalled that Canada had been requested to work with interested parties on a dialogue on means to facilitate the clarification of concerns about compliance and on the operationalization of Article 8. At the Standing Committee's first meeting, Canada presented a non-paper, which identified a set of questions for the continuation of a dialogue on this issue. These questions included viewing compliance, at least in part, in the context of cooperation to facilitate implementation. It was the sense of the Standing Committee that discussions on this issue should continue. The offer made by Canada to continue with its role on this subject was welcomed.

At the Standing Committee's second meeting, Canada introduced a paper which provided an update on activities since the first meeting. It noted that considerable progress had been made on this matter and, that while there is growing agreement on the need to continue with efforts to cooperate and to offer assistance in order to ensure full implementation of the Convention, divergent views persist on the advisability of and willingness to establish new mechanisms to deal with compliance matters.

France's national commission for the elimination of anti-personnel mines (CNEMA) provided an extensive briefing on preliminary findings of work undertaken on lessons learned from international humanitarian law and environmental law. VERTIC briefed the Standing Committee on a guide it is preparing on Article 8. The ICBL stated that the matter of the operationalization of Article 8 should be dealt with a sense of urgency and that States Parties should be prepared to invoke Article 8 should a serious breach of the Convention occur. The ICRC reported on its approach to responding to allegations of violations of international humanitarian law, including violations of instruments such as the Convention.

Article 9

Overviews were provided of efforts to establish implementing legislation in accordance with Article 9 and several States Parties provided updates on their individual efforts. The ICRC reminded States Parties of its Implementing Legislation Kit, which is available in several languages, and pointed out that it is preparing a model law for use by Common Law States. It noted that 43 States Parties have adopted or are in the process of establishing implementing legislation and it reiterated its offer to provide assistance with respect to Article 9.

VI. Other matters

A. Compliance

Further to preliminary views shared at the 3MSP about some allegations of possible non-compliance, the Standing Committee was provided with an opportunity for further discussions. One State Party used this opportunity to address allegations of production and use of AP mines, which were reported in the 2001 issue of Landmine Monitor. Comments made by this State Party and the approach taken by it with respect the allegations were welcomed by several Standing Committee participants, including the ICBL. However, the ICBL also noted an additional concern about compliance and expressed the view that States Parties should take steps to seek clarifications.

B. Addressing the humanitarian impact of mines that may pose similar risks to civilian populations as anti-personnel mines

An opportunity was provided to share steps taken, and to discuss possible approaches including best practices, to reduce the humanitarian impact of mines that may pose similar risks to civilian populations as AP mines. The ICRC provided context to this discussion by recalling attempts that had been made to agree on a common approach on how to deal with such mines and that it had hosted an experts meeting in March 2001 in order to identify practical steps to this end. In addition, it was noted that the

President's Action Programme of the 3MSP had invited States Parties to review their inventories and to report on "best practices" of how to reduce the humanitarian impact of mines that may pose similar risks to civilian populations as AP mines.

Several States Parties took advantage of the opportunity to provide greater clarity on this matter. Some States Parties noted that the humanitarian objectives of the Convention provided relevance for this discussion while others noted that the CCW would provide the appropriate framework for such matters. The ICRC suggested that States Parties use, on a voluntary basis, a reporting format that had been presented in an ICRC paper and that the Co-Chairs compile information provided. The ICBL welcomed the information provided by States Parties but expressed concern that there had not been a wider exchange.

VII. An assessment of needs that remain

A. The general status of implementation and universalization

At the Standing Committee's second meeting, the Presidency effectively highlighted that, by the Convention's first Review Conference in 2004, further progress in the achievement of the Convention's humanitarian aims will be required in some areas and expected in others. With this in mind, the Co-Chairs recommend that States Parties and relevant organizations remain as committed as they have in the past in part by taking the necessary steps now to ensure that by the Review Conference a significant renewal of commitments is made to finish the job of eliminating the terror of AP mines.

Given the importance of universalization in achieving the humanitarian aims of the Convention, the Co-Chairs would recommend that the Universalization Contact Group continue cooperative efforts to encourage formal acceptance of the Convention and that it continue with identifying means to meet the needs identified by the Group in 2001-2002. In addition, the Co-Chairs recommend that all States Parties, interested organizations and the Presidency play an active role in promoting the Convention and acceptance of it.

B. The general operation of the Convention

States Parties can rightfully be proud of the mechanisms that they have established to assist them in the general operation and implementation of the Convention. In a manner consistent with their individual mandates, the Intersessional Work Programme, the Coordinating Committee and the Implementation Support Unit have all been instrumental in assisting States Parties in their efforts to achieve the humanitarian aims of the Convention. In addition, mechanisms like the Sponsorship Programme, which have emerged on an informal basis, have also contributed to effective operation and implementation of the Convention.

The Co-Chairs recommend that States Parties express their appreciation for the value and importance of the Coordinating Committee in the effective functioning and implementation of the Convention, and for operating in an open and transparent manner. In addition, the Co-Chairs recommend that States Parties express their appreciation to the GICHD for the prompt manner in which it established the ISU and

for its ongoing support for the Intersessional Work Programme, and to the ISU for quickly demonstrating its effectiveness and value to States Parties. Moreover, the Co-Chairs recommend that States Parties express their appreciation for the manner in which the Sponsorship Programme has helped ensure more widespread representation at meetings of the Convention.

With respect to the Intersessional Programme during 2001-2002, the Co-Chairs recommend that States Parties again endorse and express satisfaction with the work of the Standing Committees, and warmly welcome their reports. In addition, given the usefulness of the Presidency's 27 May 2002 overview in providing a broad understanding of progress and challenges regarding key provisions of the Convention, and in setting the scene for more intensive dialogue during the course of the week of Standing Committee meetings, the Co-Chairs recommend that Coordinating Committee pursue a similar practice in 2002-2003. Furthermore, the Co-Chairs recommend that the Coordinating Committee, in a manner consistent with its mandate continue to be practical-minded and apply the principle of flexibility with respect to the format of Standing Committee meetings, and their sequencing and respective time allocations.

Concerning the schedule for the Intersessional Work Programme between the 4MSP and the 5MSP, the Co-Chairs recommend that Standing Committee meetings be held the weeks of 27-31 January 2003 and 12-16 May 2003. In addition, given the support expressed in May 2002 for the main elements in the Presidency's non-paper on the Intersessional Programme, the Co-Chairs recommend that the Intersessional Work Programme in 2002-2003 focus with even greater clarity on those areas most directly related to the to the core humanitarian objectives of the Convention and take due note of the principles that have served the Intersessional Programme to date, particularly the informal and cooperative nature of the process.

With respect to the Meetings of the States Parties, the Co-Chairs recommend that the Fifth Meeting of the States Parties take place in Bangkok from 15 to 19 September 2003. As well, the Co-Chairs recommend that States Parties begin a dialogue at the 4MSP on a process to prepare for the First Review Conference, with a view to providing the Presidency with a mandate to undertake consultations leading to consideration by States Parties at the 5MSP of pertinent matters related to a preparatory process.

C. The Articles of the Convention

Given the increasing clarity that has emerged to date with respect to States Parties' understandings of the word "assist" in **Article 1** (c) of the Convention, the Co-Chairs recommend that States Parties continue to share information, in an informal and voluntary manner in meetings of the Standing Committee, on how, in operational terms, Article 1 is being implemented.

The Co-Chairs recommend that States Parties continue to share information in an informal and voluntary manner in meetings of the Standing Committee on their experiences in applying **Article 2** of the Convention and pursue consultations with a view to achieving a convergence of views on outstanding issues.

To further clarify the reasons why mines are retained for training and development under **Article 3** and, in particular, to reaffirm the common understanding regarding the maximum number of mines that should be retained in a manner consistent with the Article, the Co-Chairs recommend that this topic be raised during future meetings of the Standing Committee.

The Co-Chairs recommend that States Parties continue to give due regard to the annual reporting provisions contained in **Article 7** of the Convention and that the Article 7 Contact Group, individual States Parties, the Presidency and relevant organizations continue to promote these provisions and means to assist States Parties in complying with them. In addition, the Co-Chairs recommend that States Parties maximise the potential of the existing reporting format as an important tool to measure progress in the implementation of the Convention and for mine-affected States Parties to communicate their needs to other States Parties. In particular, the Co-Chairs recommend that States Parties express their appreciation for and act upon, as appropriate, the suggestions made by the Coordinator of the Contact Group in the non-paper introduced by him on 31 May 2002.

On matters related to **Article 8**, given the general feeling expressed by the Standing Committee, the Co-Chairs recommend that the dialogue on facilitation and compliance should continue in an open-ended format and that Canada should continue in its role in facilitating this dialogue. In addition, while progress is being made regarding assistance to States Parties in implementing the Convention, the Co-Chairs recommend that States Parties consider the need to further clarify actions to be taken in the event that serious allegations of non-compliance are made.

With respect to **Article 9**, the Co-Chairs recommend that States Parties express their needs should they require assistance in developing implementing legislation and to make use of, as necessary, tools such as the ICRC-developed "Information Kit on the Development of National Legislation." In addition, the Co-Chairs recommend that States Parties provide updates in an informal and voluntary basis at meetings of the Standing Committee on efforts taken with respect to the provisions of Article 9.

D. Other matters

In view of the dangers of mines that may pose similar risks to civilians as anti-personnel mines, the Co-Chairs recommend that States Parties consider and implement, as appropriate, best practices such as those identified in the report of the ICRC-hosted Expert Meeting on anti-vehicle mines with sensitive fuses or with sensitive anti-handling devices (13-14 March 2001), to provide updates in an informal and voluntary basis at meetings of the Standing Committee on such practices, and to continue dialogue on this issue.

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* This report has been submitted by the Co-Chairs of the Standing Committee, Norway and Thailand. This report is the Co-Chairs' summary of the breadth of work undertaken by the Standing Committee during the 2001-2002 Intersessional period. It remains the responsibility of the Co-Chairs and is not a negotiated document.